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DEPARTMENT OF COMMERCE

International Trade Administration

[A-552-801]

Certain Frozen Fish Fillets from the Socialist Republic of Vietnam: Preliminary Results and Partial Rescission of the Antidumping Duty Administrative Review; 2014-2015

AGENCY: Enforcement and Compliance, International Trade Administration,
Department of Commerce

SUMMARY: The Department preliminarily determines that none of the mandatory respondents in this review qualify for a separate rate and are, therefore, considered a part of the Vietnam-Wide Entity for their exports of subject merchandise exported to the United States during the period of review (“POR”) August 1, 2014, through July 31, 2015. If these preliminary results are adopted in the final results, the Department will instruct U.S. Customs and Border Protection (“CBP”) to assess antidumping duties on all appropriate entries of subject merchandise during the POR. Interested parties are invited to comment on these preliminary results.

DATES: Effective [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER].

FOR FURTHER INFORMATION CONTACT: Kenneth Hawkins or Javier Barrientos,
AD/CVD Operations, Office V, Enforcement and Compliance, International Trade
Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW,
Washington, DC 20230; telephone 202-482-6491 or 202-482-2243, respectively.

SUPPLEMENTARY INFORMATION:

Background

On September 30, 2014, the Department initiated the 12th administrative review of the antidumping duty order on fish fillets from Vietnam for the period August 1, 2014, through July

31, 2015.¹ On May 4, 2016, the Department partially extended the deadline for issuing the preliminary results by 118 days.² The revised deadline for the preliminary results of this administrative review is now September 6, 2016.

Scope of the Order

The product covered by the order is frozen fish fillets, including regular, shank, and strip fillets and portions thereof, whether or not breaded or marinated, of the species *Pangasius Bocourti*, *Pangasius Hypophthalmus* (also known as *Pangasius Pangasius*) and *Pangasius Micronemus*. These products are classifiable under tariff article code 0304.62.0020 (Frozen Fish Fillets of the species *Pangasius*, including basa and tra), and may enter under tariff article codes 0305.59.0000, 1604.19.2100, 1604.19.3100, 1604.19.4100, 1604.19.5100, 1604.19.6100 and 1604.19.8100 of the Harmonized Tariff Schedule of the United States (“HTSUS”).³ Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of the order is dispositive.⁴

¹ See *Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 80FR 60356 (October 6, 2015).

² See Memorandum to Christian Marsh, Deputy Assistant Secretary, Antidumping and Countervailing Duty Operations, , through James C. Doyle, Director, Office V, Antidumping and Countervailing Duty Operations regarding, from, Kenneth Hawkins, International Trade Compliance Analyst, Antidumping and Countervailing Duty Operations, “Certain Frozen Fish Fillets from the Socialist Republic of Vietnam: Extension of Deadline for Preliminary Results of 2014-2015 Antidumping Duty Administrative Review,” dated May 4, 2016.

³ Until June 30, 2004 these products were classifiable under HTSUS 0304.20.6030, 0304.20.6096, 0304.20.6043 and 0304.20.6057. From July 1, 2004 until December 31, 2006 these products were classifiable under HTSUS 0304.20.6033. From January 1, 2007 until December 31, 2011 these products were classifiable under HTSUS 0304.29.6033. On March 2, 2011 the Department added two HTSUS numbers at the request of U.S. Customs and Border Protection (“CBP”) that the subject merchandise may enter under: 1604.19.2000 and 1604.19.3000, which were changed to 1604.19.2100 and 1604.19.3100 on January 1, 2012. On January 1, 2012 the Department added the following HTSUS numbers at the request of CBP: 0304.62.0020, 0305.59.0000, 1604.19.4100, 1604.19.5100, 1604.19.6100 and 1604.19.8100.

⁴ For a complete description of the scope of the order, see Memorandum to Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, from Gary Taverman, Associate Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations “Certain Frozen Fish Fillets from the Socialist Republic of Vietnam: Issues and Decision Memorandum for the Final Results of the 11th Antidumping Duty Administrative Review; 2013-2014,” at 2-3 (“Issues and Decision Memorandum”), dated concurrently with and hereby adopted by this notice.

Partial Rescission of Administrative Review

Pursuant to 19 CFR 351.213(d)(1), the Department will rescind an administrative review, in whole or in part, if the parties that requested a review withdraw the request within 90 days of the date of publication of the notice of initiation. Between December 30, 2015 and January 4, 2016 we received timely withdrawal of review requests for 62 companies from Petitioner⁵, Bien Dong Seafood Co., Ltd (“Bien Dong”), and Vinh Hoan Corporation (“Vinh Hoan”).⁶ Of these 62 companies, 38 do not have any review request outstanding. Therefore, in accordance with 19 CFR 351.213(d)(1), the Department is rescinding this review of the antidumping duty order on certain frozen fish fillets from the Socialist Republic of Vietnam with respect to these 38 companies.⁷ In addition the Department is rescinding the review for two additional companies.⁸ The review will continue with respect to the other firms for which a review was requested and initiated.

Preliminary Determination of No Reviewable Transactions

The Department has preliminarily determined that Ben Tre Aquaproduct Import and Export Joint Stock Company, CADOVIMEX II Seafood Import Export and Processing Joint Stock Company, and Hoang Long Seafood Processing Company Limited had no reviewable transactions during the POR. Consistent with our practice in non-market economy (“NME”) cases, we will not to rescind the review, in part, in this circumstance, but rather, complete the

⁵ Catfish Farmers of America and individual U.S. catfish processors America's Catch, Alabama Catfish Inc. dba Harvest Select Catfish, Inc., Heartland Catfish Company, Magnolia Processing, Inc. dba Pride of the Pond, and Simmons Farm Raised Catfish, Inc. (hereinafter, “Petitioner”).

⁶ See, e.g., Letter from Bien Dong Seafood regarding Frozen Fish Fillets from the Socialist Republic of Vietnam: Withdrawal of Request for Administrative Review - Bien Dong Seafood Co., Ltd., dated December 30, 2015; Letter from Petitioner regarding Certain Frozen Fish Fillets from the Socialist Republic of Vietnam: Partial Withdrawal of Request for Antidumping Duty Administrative Review, dated January 4, 2016; Letter from Vinh Hoan regarding Frozen Fish Fillets from the Socialist Republic of Vietnam: Withdraw of Request for Administrative Review – Vinh Hoan Corporation, dated January 4, 2016.

⁷ See Appendix II for a full list of rescinded companies.

⁸ See Issues and Decision Memorandum at 4.

review with respect to these companies and issue appropriate instructions to CBP based on the final results of the review.⁹

Methodology

The Department is conducting this review in accordance with sections 751(a)(1)(B) and 751(a)(2)(A) of the Tariff Act of 1930, as amended (“the Act”). Constructed export prices and export prices have been calculated in accordance with section 772 of the Act. Because Vietnam is an NME within the meaning of section 771(18) of the Act, NV has been calculated in accordance with section 773(c) of the Act.

For a full description of the methodology underlying our conclusions, *see* the Preliminary Decision Memorandum. The Preliminary Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance’s Antidumping and Countervailing Duty Centralized Electronic Service System (“ACCESS”). ACCESS is available to registered users at <http://access.trade.gov>, and is available to all parties in the Central Records Unit, room B8024 of the main Department of Commerce building. In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly on the internet at <http://enforcement.trade.gov/frn/>. The signed Preliminary Decision Memorandum and the electronic versions of the Preliminary Decision Memorandum are identical in content.

Preliminary Results of Review

The Department preliminarily determines that the following weighted-average dumping margins exist for the period August 1, 2013, through July 31, 2014:

| Exporter | Weighted-Average Margin (Dollars/Kilogram) ¹⁰ |
|----------|--|
|----------|--|

⁹ See *Non-Market Economy Antidumping Proceedings: Assessment of Antidumping Duties*, 76 FR 65694, 65694-65695 (October 24, 2011).

| | |
|--|------|
| Cuu Long Fish Joint Stock Company* | 0.69 |
| GODACO Seafood Joint Stock Company* | 0.69 |
| Green Farms Seafood Joint Stock Company* | 0.69 |
| NTSF Seafoods Joint Stock Company* | 0.69 |
| Vietnam-Wide Entity ¹¹ | 2.39 |

* These companies are separate rate respondents not individually examined.

Disclosure, Public Comment & Opportunity to Request a Hearing

The Department will disclose the calculations used in our analysis to parties in this review within five days of the date of publication of this notice in accordance with 19 CFR 351.224(b).

Interested parties may submit case briefs within 30 days after the date of publication of these preliminary results of review in the *Federal Register*.¹² Rebuttals to case briefs, which must be limited to issues raised in the case briefs, must be filed within five days after the time limit for filing case briefs.¹³ Parties who submit arguments are requested to submit with the argument (a) a statement of the issue, (b) a brief summary of the argument, and (c) a table of authorities.¹⁴ Parties submitting briefs should do so pursuant to the Department's electronic filing system, ACCESS.

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing must submit a written request to the Assistant Secretary for Enforcement and Compliance within 30 days of the date of publication of this notice. Requests should contain: (1) the party's name,

¹⁰ In the third administrative review of this order, the Department determined that it would calculate per-unit assessment and cash deposit rates for all future reviews. See *Certain Frozen Fish Fillets from the Socialist Republic of Vietnam: Final Results of Antidumping Duty Administrative Review and Partial Rescission*, 73 FR 15479 (March 24, 2008).

¹¹ The Vietnam-wide entity includes mandatory respondents Golden Quality Seafood Corporation, Thuan An Production Trading and Service Co., Ltd. and Viet Phu Foods and Fish Corporation.

¹² See 19 CFR 351.309(c)(1)(ii).

¹³ See 19 CFR 351.309(d)(1)-(2).

¹⁴ See 19 CFR 351.309(c)(2), (d)(2).

address and telephone number; (2) the number of participants; and (3) a list of issues parties intend to discuss. Issues raised in the hearing will be limited to those raised in the respective case and rebuttal briefs. If a request for a hearing is made, the Department intends to hold the hearing at the U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230, at a date and time to be determined. *See* 19 CFR 351.310(d). Parties should confirm by telephone the date, time, and location of the hearing two days before the scheduled date.

The Department intends to issue the final results of this administrative review, which will include the results of our analysis of all issues raised in the case briefs, within 120 days of publication of these preliminary results in the *Federal Register*, pursuant to section 751(a)(3)(A) of the Act.

Assessment Rates

Upon issuance of the final results, the Department will determine, and CBP shall assess, antidumping duties on all appropriate entries covered by this review.¹⁵ The Department intends to issue assessment instructions to CBP 15 days after the publication date of the final results of this review.

For any individually examined respondent whose weighted average dumping margin is above *de minimis* (i.e., 0.50 percent) in the final results of this review, the Department will calculate importer-specific assessment rates on the basis of the ratio of the total amount of dumping calculated for the importer's examined sales to the total entered value of sales, in accordance with 19 CFR 351.212(b)(1). Where an importer- (or customer-) specific *ad valorem* rate is greater than *de minimis*, the Department will instruct CBP to collect the appropriate duties

¹⁵ *See* 19 CFR 351.212(b).

at the time of liquidation.¹⁶ Where either a respondent's weighted average dumping margin is zero or *de minimis*, or an importer- (or customer-) specific *ad valorem* is zero or *de minimis*, the Department will instruct CBP to liquidate appropriate entries without regard to antidumping duties.¹⁷

Cash Deposit Requirements

The following cash deposit requirements will be effective upon publication of the final results of this review for shipments of the subject merchandise from Vietnam entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided by sections 751(a)(2)(C) of the Act: (1) For the companies listed above that have a separate rate, the cash deposit rate will be that established in the final results of this review (except, if the rate is zero or *de minimis*, then zero cash deposit will be required); (2) for previously investigated or reviewed Vietnam and non-Vietnam exporters not listed above that received a separate rate in a prior segment of this proceeding, the cash deposit rate will continue to be the existing exporter-specific rate; (3) for all Vietnam exporters of subject merchandise that have not been found to be entitled to a separate rate, the cash deposit rate will be that for the Vietnam -wide entity; and (4) for all non-Vietnam exporters of subject merchandise which have not received their own rate, the cash deposit rate will be the rate applicable to the Vietnam exporter that supplied that non-Vietnam exporter. These deposit requirements, when imposed, shall remain in effect until further notice.

Notification to Importers

This notice also serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping

¹⁶ See 19 CFR 351.212(b)(1).

¹⁷ See 19 CFR 351.106(c)(2).

duties prior to liquidation of the relevant entries during the POR. Failure to comply with this requirement could result in the Department's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This preliminary determination is issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: September 6, 2016.

Christian Marsh
Deputy Assistant Secretary
for Enforcement and Compliance

Appendix I

List of Topics Discussed in the Preliminary Decision Memorandum:

1. Summary
2. Case History
3. Scope of the Order
4. Discussion of the Methodology
 - a. Partial Rescission
 - b. Selection of Respondents
 - c. Preliminary Determination of No Reviewable Transactions
 - d. NME Country Status
 - e. Separate Rates
5. Recommendation

Appendix II

- 1) An Giang Fisheries Import and Export Joint Stock Company (also known as Agifish or AnGiang Fisheries Import and Export)
- 2) An My Fish Joint Stock Company (also known as Anmyfish or Anmyfishco)
- 3) An Phat Seafood Co. Ltd.
- 4) An Phu Seafood Corp. (also known as ASEAFOOD)
- 5) Anvifish Co., Ltd.
- 6) Asia Commerce Fisheries Joint Stock Company (also known as Acomfish JSC or Acomfish)
- 7) Asia Pangasius Company Limited
- 8) Bentre Forestry and Aquaproduct Import Export Joint Stock Company (also known as Ben Tre Forestry and Aquaproduct Import-Export Company or Ben Tre Forestry Aquaproduct Import-Export Company or Ben Tre Frozen Aquaproduct Export Company or Faquimex)
- 9) Binh An Seafood Joint Stock Co.
- 10) C.P. Vietnam Corporation
- 11) Cafatex Corporation (CAFATEX)
- 12) Can Tho Animal Fishery Products Processing Export Enterprise (also known as Cafatex)
- 13) Europe Joint Stock Company
- 14) Hiep Thanh Seafood Joint Stock Co.
- 15) Hoang Long Seafood Processing Co., Ltd. (HLS)
- 16) Hung Vuong Corporation
- 17) Hung Vuong Joint Stock Company
- 18) Hung Vuong Mascato Company Limited
- 19) Hung Vuong-Sa Dec Co. Ltd.
- 20) Hung Vuong-Vinh Long Co., Ltd.
- 21) International Development & Investment Corporation (IDI)
- 22) Lian Heng Investment Co., Ltd. (also known as Lian Heng)
- 23) Lian Hengg Trading Co., Ltd. (also known as Lian Heng)
- 24) Nam Viet Company Ltd.
- 25) Ngoc Ha Co., Ltd. Food Processing and Trading
- 26) Nha Trang Seafoods, Inc. (also known as Nha Trang Seafoods-F89 or Nha Trang Seafoods)
- 27) Quang Minh Seafood Co., Ltd.
- 28) Seafood Joint Stock Company No. 4-Branch Dong Tam Fisheries Processing Company (DOTASEAFOODCO)
- 29) Southern Fisheries Industries Company, Ltd. (also known as South Vina)
- 30) Southern Fishery Industries Company, Ltd. (also known as South Vina)
- 31) Sunrise Corporation
- 32) TG Fishery Holdings Corporation (also known as TG)
- 33) Thanh Hung Co., Ltd. (also known as Thanh Hung Frozen Seafood Processing Import Export Co., Ltd. or Thanh Hung)
- 34) Thien Ma Seafood Co., Ltd. (also known as THIMACO)
- 35) Thien Ma Seafoods Co., Ltd. (also known as THIMACO)
- 36) Thien Phat Seafood Co., Ltd.

- 37) Thuan An Production Trading and Services Co., Ltd. (TAFISHCO)
- 38) Thuan Hung Co., Ltd. (also known as THUFICO)
- 39) Vinh Long Import-Export Company (also known as Vinh Long or Imex Cuu Long)
- 40) Vinh Quang Fisheries Joint-Stock Company

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